

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

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In the Matter of )  
 )  
Advanced Television )  
Systems and Their Impact )  
Upon the Existing )  
Television Broadcast )  
Service )  
 )  
Fourth Further Notice of )  
Proposed Rule Making )

MM Docket No. 87-268

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**COMMENTS OF**  
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November 7, 1995

As an interested consumer, I, Harley J. Goldstein, submit these comments in response to the Commission's *Fourth Further Notice of Proposed Rule Making and Third Notice of Inquiry* ("Current Notice")<sup>1</sup> in this proceeding addressing the issue of the transition period.

### Background

In the *Third Further Notice of Proposed Rule Making* ("Previous Notice")<sup>2</sup> the Commission preliminarily decided to conclude the transition period 15 years from the later of either the date of adoption of an Advanced Television ("ATV") system standard or the effective date of a final Table of ATV Allotments. The Commission also adopted a schedule of periodic reviews to make necessary adjustments upon a substantial showing that the changes would be in the public interest.

The Commission determined the establishment of a firm date by which to effectuate the change would benefit the public by keeping administration simple, assuring timely progress, and providing for a clearly defined planning horizon. The Commission reasoned that adoption of a firm transition date would expedite the transition to ATV. The Commission cautioned that cessation of broadcasting on, and surrender of, NTSC frequencies depended on ATV becoming the prevalent medium in American households.

In the Current Notice, the Commission recognized that there may be reasons to expect broadcasters to adopt ATV technology at a

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<sup>1</sup> FCC 95-315, adopted July 28, 1995, released August 9, 1995.

<sup>2</sup> 7 FCCRcd 6924 (1992).

more rapid pace than was originally conceived. The Current Notice calls for comment on whether the previously set deadline should be reconsidered.

### Recommendation

The circumstances affecting the transition from NTSC to digital television are methodologically similar to the transition from broadcast to cable television. In particular, they share one common concern: the need to ensure that the population in its entirety has access to television programming. As was said of cable, protecting "households from loss of regular television broadcasting service..." is an "important and substantial federal interest."<sup>3</sup>

In order to ensure both that television services are preserved for the populace, and to effectuate the transition period most efficiently, a variable recovery period is necessary. A fixed period for the recapture of the current NTSC channels is needlessly rigid and would not accomplish the necessary goals the transition must achieve.

In assigning bandwidth on the electromagnetic spectrum to advanced television broadcasters, the FCC must strike a balance between bringing technology to the populace in as speedy a manner as possible and ensuring that information is not denied to any portion of the population. A fixed deadline for retaking the portion of the spectrum used for NTSC broadcasting would be counterproductive to these goals. It is important that the public

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<sup>3</sup> Capital Cities Cable, Inc. v. Crisp, 467 U.S. 691, 714, 104 S.Ct. 2694, 2708, 81 L.Ed.2d 580 (1984).

stands to gain most from the conversion process.

Without a staggered channel reallocation, the parties who stand to profit from the conversion are likely not the consumers. A fixed deadline for effectuating transition would merely reallocate a windfall to television manufacturers.

The television industry lacks domestic producers.<sup>4</sup> It doesn't take a vivid imagination to imagine an international price collusion scheme to maintain high prices for advanced television sets if manufacturers know the entire viewership, by a certain fixed date, must purchase new television sets in order to continue to receive programming.

If every television viewer is required to purchase a digital receiver or signal converter by a certain fixed period, manufacturers have an incentive to maintain a price shelf until every consumer has purchased the necessary receiver or converter. In the event of such a scheme, advanced television system prices might not be reduced until the day after the population has been required to buy new television sets to meet the fixed deadline.

If the allocation of ATV channels is made dependent on the number of families able to receive such transmissions, television manufacturers and broadcasters would have an incentive to make receivers or converters available to consumers for a low price. As ownership of ATV sets increases, ATV programming will be allowed to increase. As ATV programming increases, so too will demand for ATV receivers. Hence, the incentive to make ATV receivers or converters accessible to the populace. This would seem to advance

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<sup>4</sup> See, e.g., Claude Lewis, *The Selling of America Continues*, San Diego Union-Tribune, July 23, 1995, at G-3 ("[T]he final nail is about to be hammered into the coffin of American-owned television manufacturing.").

ATV as the prevalent medium at a more rapid pace than a fixed deadline.


A staggered channel reallocation scheme is an ideal solution. Because ensuring access to information is vital, with each fixed increment of households able to receive digital television, the FCC could recover another analog channel. In other words, a timetable would be set, whereas by each categorical percentage increase in households able to receive ATV signals would result in a corresponding conversion of an NTSC station. As more and more families gain access to the new media, less NTSC channels would remain, until all of the old frequencies are regained, in line with the population's complete conversion to the new format. This way, some access is ensured to every member of the population, an incentive is maintained for conversion, and the majority of the population will enjoy the benefit of the increasing capabilities the new technology provides.

The staggered channel reallocation method would require a set timetable of when each channel should be regained, corresponding to a percentage of households able to receive ATV broadcasts. This system would not require constant reevaluation of the broadcast industry to determine if the timetable is in the best interest of the populace, as would the previous recommendation. It would seem that this plan, and not the previous recommendation, would not only realize the stated goals of the transition, but would in fact simplify administration.

An incremental system would assure timely adoption of the new standard faster than would a static defined planning horizon. It is because of this that I recommend the Commission adopt a

staggered, and not a single, fixed, transition deadline.

Respectfully submitted,

  
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